

REMARKS

Applicant respectfully requests reconsideration of this application in view of the foregoing amendment and following remarks.

Status of the Claims

Claims 1-10 and 30-51 are currently pending. Claims 33-51 have been withdrawn from consideration. Among the remaining claims, claims 1, 9, 10, 30 and 31 are independent.

Claims 1-3 and 7-10 have been rejected. Claims 5 and 6 have been indicated as allowable if rewritten to overcome the rejection(s) under 35 U.S.C. §112, second paragraph, to include all of the limitations of the base claim and any intervening claims. Claims 30-32 are allowed.

By this amendment, claims 1-10 are amended. No new matter has been added by this amendment.

Rejection under 35 U.S.C. §103

In paragraph three (3) of the office action, claims 1-3 and 7-10 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,689,442 to Swanson et al. ("Swanson") in view of U.S. Patent No. 6,094,219 to Roberts et al. ("Roberts").

The Examiner indicates among other things that as Roberts discloses the different photographing modes (i.e., High, Medium or Low), specifying the image size of a photographing mode in the claims is well-known.

As Applicant understand it, there is no motivation in combining Roberts with Swanson because Roberts does not show or suggest anything about automatically securing the memory space for a photographing to which the present invention is directed. Applicant respectfully

requests that the Examiner view the claims of the present invention as a whole.

Nonetheless, independent claims 1, 9 and 10 have been amended for further clarification. In particular, amended claim 1 recites “a comparing device that compares remaining capacity of said image memory device with a size of another image signal to be photographed in a photographing mode of said image pickup device, wherein the photographing mode of said image pickup device specifies the size of the another image signal.” Other independent claims (i.e., claims 9 and 10) recite similar features. Support for the amendment may be found, for example, at the first full paragraph of page 18 of the original specification.

The image processing device of the present invention compares the remaining memory capacity of an image memory device with a specified size of another image signal to be photographed. In other words, the size of the image signal is specified by the photographing mode, and a comparing device therefore compares the remaining capacity with the image signal size corresponding to the photographing mode.

Applicant believes that this feature of the invention is neither taught nor suggested by any of the cited references (i.e., Swanson, Roberts and U.S. Patent No. 5,829,044 to Sono), either taken alone or in combination.

Accordingly, claims 1, 9 and 10 are believed to be allowable over the cited references for at least the reasons discussed above.

Reconsideration and withdrawal of the rejections of claims 1, 9 and 10 under 35 U.S.C. §103(a) is respectfully requested.

Applicant has not individually addressed the rejections of the dependent claims because Applicant submits that the independent claims from which they respectively depend are in

condition for allowance as set forth above. Applicant however reserves the right to address such rejections of the dependent claims should such be necessary.

Applicant believes that the application is in condition for allowance and such action is respectfully requested.

AUTHORIZATION

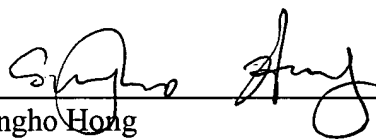
No petitions or additional fees are believed due for this amendment and/or any accompanying submissions. However, to the extent that any additional fees and/or petition is required, including a petition for extension of time, Applicant hereby petitions the Commissioner to grant such petition, and hereby authorizes the Commissioner to charge any additional fees, including any fees which may be required for such petition, or credit any overpayment to Deposit Account No. 13-4500 (Order No. 1232-4440). A DUPLICATE COPY OF THIS SHEET IS ENCLOSED.

An early and favorable examination on the merits is respectfully requested.

Respectfully submitted,
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Dated: August 17, 2004

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